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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY)

Petition for expedited approval of implementation of
a market-based alternative tariff, to become effective
on or before May 1, 2000, pursuant to Article IX and
Section 16-112 of the Public Utilities Act.)

Docket No. 00-0259

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ILLINOIS
COMMERCE COMMISSION

THE PEOPLE OF THE STATE OF ILLINOIS' REPLY BRIEF ON EXCEPTIONS

The People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois ("the People" or "AG") hereby file their Reply Brief on Exceptions to the Briefs on Exceptions filed in response to the Hearing Examiner's Proposed Order ("HEPO") in the above-entitled matter, issued on April 21, 2000.

A. Due Process

The People of the State of Illinois reiterate the due process arguments set out in our Comments of the People of the State of Illinois and Brief on Exceptions of the People of the State of Illinois. Further, Enron Energy Services, Midamerican Energy and the IIEC make similar due process arguments in their exceptions to the HEPO, stating that the schedule as set out and modified by the Hearing Examiner Rulings denied the parties their due process rights to reasonable notice, a hearing and the cross-examination of witnesses. See Brief on Exceptions of Enron Energy Services, Inc., at 7-11; Initial Brief on Exceptions Filed on Behalf of the Illinois Industrial Energy Consumers, at 3-6; Midamerican Energy Company's Objections to Hearing Examiner's Proposed Order, at 6-8.

Sieben Energy Associates notes that "[d]ue to limited time and opportunity to conduct meaningful discovery, it would be difficult to accurately assess the validity of Edison's

proposal.” Sieben Energy Associates Brief on Exceptions, at 1. However, Sieben neglects to attack the due process failings of the HEPO. Rather, Sieben suggests an entirely new docket be initiated within 30 days of the conclusion of this proceeding to address: what is the correct market-based approach to pricing power; what are the characteristics of a market pricing methodology so that Edison, ARES and the Commission can effectively rely on an index; what type of transactions should be at the core of any market pricing methodology; what level of trading is needed to effectively rely on a market index or power exchange; how can the Commission assure that a transparent market-based approach to pricing is established in the future. Id., at 3-4. These are questions and evaluative tools that must be addressed and developed in this docket, prior to approval of the Rider PPO MI, in a proper hearing, with requisite due process elements discussed above and in the People of the State of Illinois’ Comments and Exceptions. The facts that these questions linger after the HEPO has been issued and comments and exceptions have been made, demonstrates that these issues have not been properly resolved and the Commission does not have sufficient information with which to evaluate ComEd’s proposed tariff changes.

B. Section 16-112(m) of the PUA

Both Unicom Energy and Sieben fail to address ComEd’s ability under Section 16-112(m) of the PUA to refuse to implement any Commission suggested modifications to a market-based tariff. Any modifications coming out of Sieben’s new docket could at best be suggested to ComEd by the Commission. It would be entirely up to ComEd whether to incorporate them into their existing tariff, if passed. Therefore, any suggestions or modifications to cure the unresolved problems regarding Rider PPO MI offered after the tariff’s approval could be meaningless.

Unicom Energy's claim that a series of workshops convened after the summer of 2000 will address improvements and adjustments to the Rider PPO MI tariff similarly ignores ComEd's power to refuse any modifications to come out of these workshops, regardless of whether the Commission approves them or not. See Unicom Energy, Inc.'s Brief in Support of it Exceptions at 5. The HEPO notes and ComEd reiterates in its exceptions that ComEd has refused to waive its right to reject future proposed modifications to Rider PPO MI. HEPO at 24; ComEd Exceptions at 1. Therefore, it is before Rider PPO MI is passed, not after, that the Commission should conduct a full hearing to ensure that any modifications or adjustments that need to be made can be.


C. Conclusion

WHEREFORE, the People of the State of Illinois respectfully request that the Commission adopt the modifications to the Hearing Examiner's Proposed Order as set forth on the People of the State of Illinois' Brief on Exceptions and their Reply Brief on Exceptions filed herein.

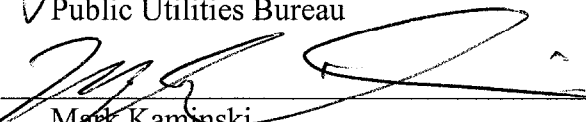
Respectfully submitted,

THE PEOPLE OF THE STATE OF ILLINOIS
James E. Ryan, Attorney General

By:


Janice A. Dale, Chief
Public Utilities Bureau

By:


Mark Kaminski
Assistant Attorney General

Dated: April 25, 2000

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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NOTICE OF FILING

PLEASE TAKE NOTICE that on this date, April 25, 2000, we have filed with the Chief Clerk of the Illinois Commerce Commission the enclosed Reply Brief on Exceptions of the People of the State of Illinois' in the above-captioned docket by delivering it to United Parcel Service for next day delivery to Donna Caton, Chief Clerk of the Illinois Commerce Commission, at 527 East Capitol Avenue, Springfield, Illinois 62794.


Mark G. Kaminski

Assistant Attorney General

CERTIFICATE OF SERVICE

I, Mark G. Kaminski an Assistant Attorney General, hereby certify that I served the above identified documents upon all active documents upon all active parties of record on the attached service list by United States Mail, first class postage prepaid on April 25, 2000.


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